

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF:

AARON EUGENE TATLOCK
SANDRA KAY TATLOCK

Debtors

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CASE NO. 05-40873

DECISION AND ORDER

At Fort Wayne, Indiana, on December 29, 2005.

The trustee in this Chapter 13 case has objected to a claim filed on behalf of The Care Group which has been designated by the clerk as claim no. 6. There has been no response to this objection within the time required by the local rules of this court, N.D. Ind. L.B.R. B-3007-1(b) and the matter is before the court for a decision.

The trustee asks that the claim be denied because it duplicates claim number 7 which is being allowed. Admittedly the creditor is entitled to only one claim against the estate, but claim 7 is not a duplicate claim – the same claim filed twice. Instead, it amends and replaces a claim filed on September 23, 2005. As a result, original claim filed by The Care Group – claim no. 6 – has been superceded by claim 7. It is no longer pending before the court and of no further force or effect. See Cf., 188 LLC v. Trinity Industries, Inc., 300 F.3d 730, 736 (7th Cir. 2002)(“An amended pleading ordinarily supercedes the prior pleading. The prior pleading is in effect withdrawn. . .and becomes functus officio.”); Kelley v. Crosfield Catalysts, 135 F.3d 1202,1204-05 (7th Cir. 1998)(same). Thus, The Care Group is asserting only one claim against the estate, not two, and the fundamental premise of the trustee’s objection is incorrect.

IT IS THEREFORE ORDERED that the trustee’s objection to claim no. 6 filed by The Care

Group is overruled.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court